

CALIFORNIA COASTAL COMMISSION

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**TH 12D**

February 25, 2005

TO: COMMISSIONERS AND INTERESTED PERSONS**FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA OFFICE
ELLEN LIRLEY, COASTAL PROGRAM ANALYST, SAN DIEGO AREA
OFFICE****SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT 3-03C (Sunset Pointe) for Commission Meeting of March 16-18,
2005**

SYNOPSIS

This request, LCPA 3-03C, is part of LCP amendment package No. 3-03. The remainder of the package that has not already been approved by the Commission addresses an adjacent, 185-acre site (Crescent Heights) which is also on the agenda, but will be addressed in a separate staff report as LCPA 3-03B. A time extension for up to one year for Commission action on LCPA #3-03B and LCPA #3-03C was approved by the Commission on October 15, 2004. LCPA 3-03A, an IP change that addressed companion units, was acted on by the Commission in November, 2003. In addition to the LCP amendment, portions of the affected lots are in an area of deferred certification (i.e., everything beyond the rim of the canyon), where the Commission retains permit authority at this time. The corresponding coastal development permit application is currently undergoing staff analysis, although it is incomplete and not yet filed. The Coastal Commission will review this and the proposed subdivision for Sunset Pointe at a later date.

SUMMARY OF AMENDMENT REQUEST

The City of San Diego is requesting to amend both the certified North City LCP Land Use Plan (LUP) segment (Mira Mesa subarea) and the certified LCP Implementation Plan (IP). The proposed LCP amendment would change the current boundaries between the residential and open space land use designations on a 37.5 acre site known as Sunset Pointe. The site affected by the proposed amendment contains an eastern and western mesa top separated by a north-south trending finger canyon which contains steep hillsides and coastal sage scrub vegetation and leads to the main east-west trending Lopez Canyon. The proposed residential use area would include both mesa tops and the northern portion of the finger canyon to accommodate construction of an access road connecting the mesa top areas and residential units along the northern property boundary. The remainder of the site is proposed as open space.

The current LUP designates residential use on a portion of each mesa top, with the finger canyon shown as open space. There are access points to the mesa areas through two separate streets located within the residential development to the north. The proposed LUP amendment would change the policies that currently prohibit grading beyond the rim of Los Penasquitos Canyon Preserve to allow encroachment beyond the canyon rim if the development meets certain criteria proposed by the City.

The City of San Diego has approved a coastal development permit for a Planned Residential Development called Sunset Pointe in association with the proposed LCP amendment and conditioned to take effect only upon approval of the proposed LCP amendment. The proposed LUP revisions would accommodate a residential development as approved by the City to be clustered along the northern boundary of the site across the finger canyon encompassing approximately 11 acres total development area (4.35 ac. for homes; 1.92 ac. for street area; 1.64 ac. for brush management and 2.93 ac. of revegetated manufactured slopes) on the 37.5 acre site. The 30 unit residential development approved by the City is not consistent with current zoning, the land use/open space designations in the certified LUP, and the LUP policy that prohibits grading beyond the canyon rim; thus, an LCP amendment is requested.

Current LUP language which references the R-1-5000 and R-1-10,000 zones as the appropriate zones to implement the low and very low residential density land use designation, allowing 4-8 and 0-4 dwelling units per acre (dua), respectively, on the subject site would be modified to remove references to those specific zones. The proposed amendment would also rezone the lot, which is currently zoned AR-1-1, formerly called the A-1-10 Zone, a very low density holding zone requiring minimum 10-acre lots. All proposed permanent open space would be rezoned to OC-1-1, the City's most restrictive open space zone. Areas to be developed with single-family residential use on the Sunset Pointe property would be rezoned to RS-1-14 (minimum 5,000 sq.ft. lots, or up to 8 dwelling units per acre [dua]). The property is located west of Camino Santa Fe and south of Calle Cristobal (or, more specifically, south of the Sunny Mesa Road and Lopez Ridge Way cul-de-sacs), in the Mira Mesa Community of the North City LCP segment.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the proposed LUP amendment be denied, due to inconsistency with Section 30240 of Chapter 3 of the Coastal Act, which addresses the protection of natural resources, especially those identified as environmentally sensitive habitat areas (ESHA). The proposed revisions to the boundary between developable area and open space are not reflective of the actual resources on the ground, and would permit residential development and supporting infrastructure in areas designated as ESHA.

Staff then recommends the LUP amendment be approved with suggested modifications to both the text and maps of the LUP to revise the residential and open space boundaries to reflect existing habitat and topography and locate residential development on the least

sensitive portion of the site. The western mesa is flatter and, although it contains some coastal sage scrub and native grasslands, the quality of the habitat has been degraded through introduction of non-native species. Staff acknowledges grading beyond the canyon rim would be necessary to construct access to the flatter, less sensitive portion of the western mesa; however, such access would not impact ESHA. Staff also acknowledges the eastern mesa could accommodate three single family residences without encroachment beyond the canyon rim. However, the eastern mesa is entirely comprised of ESHA in the form of native grassland and coastal sage scrub habitat.

Staff recommends the IP amendment be denied as submitted. No modifications are suggested at this time. The suggested revisions to the LUP are significant, and may result in the City and/or the property owner wanting a different development type than was previously approved. It would be premature to assign a specific zone without knowing what density and product type can be accommodated on the least sensitive portion of the property.

The appropriate resolutions and motions begin on page 6. Suggested Modifications begin on page 8. The findings for denial of the LUP amendments begin on page 12. The findings for approval of the LUP amendments with suggested modifications begin on page 27. The findings for denial of the IP amendments begin on page 32.

BACKGROUND

For purposes of developing an LCP, the City of San Diego's coastal zone was divided into twelve segments, each with their own land use plan. In the case of the North City LCP segment, the area included several distinct communities that were in various stages of planning and buildout. Mira Mesa, where this site is located, is one of the "subareas," along with Carmel Valley, Sorrento Hills, Torrey Pines, University, Via de la Valle, and the North City Future Urbanizing Area. Portions of the property are also within the Penasquitos Canyon Preserve study area, which is an area of deferred certification within Mira Mesa, where master planning has not yet taken place.

The area of deferred certification (ADC) known as Los Penasquitos Canyon Preserve encompasses both Los Penasquitos and Lopez Canyons. This is identified in the Commission's certification action in 1988 in narrative form only, with no accompanying map. However, the Preserve master planning area encompasses both the streambeds and canyon walls. Therefore, both the City and the Commission have acted for the past 16 years on the understanding that the area of deferred certification includes everything below the rim of the canyons, with only the mesa tops in the City's coastal development permit jurisdiction. Thus, for purposes of coastal development permits, portions of the subject site on the mesa tops are within the City's jurisdiction, and portions beyond the canyon rim are within the deferred certification area, where the Coastal Act remains the legal standard of review, and the Mira Mesa LUP and older North City LUP are used for guidance.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment No. 3-03C (Sunset Pointe) may be obtained from Ellen Lirley, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part. The earliest LUP approval occurred in May 1979, with others occurring in 1988, in concert with the implementation plan. The final segment, Mission Bay Park, was certified in November 1996. Since 1988, a number of community plans (LUP segments) have been updated and certified by the Commission.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code (LDC) and a few PDOs; this replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000.

Several isolated areas of deferred certification remained at that time; some of these have been certified since through the LCP amendment process. Other areas of deferred certification remain today and are completing planning at a local level; they will be acted on by the Coastal Commission in the future. Since effective certification of the City's LCP, there have been numerous major and minor LCP amendments processed by the Commission.

B. STANDARD OF REVIEW

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of and conforms with Chapter 3 of the Coastal Act. Specifically, it states:

Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

In those cases when a local government approves implementing ordinances in association with a land use plan amendment and both are submitted to the Commission for certification as part of one LCP amendment, pursuant to Section 13542(c) of the Commission's regulations, the standard of review of the implementing actions shall be the land use plan most recently certified by the Commission. Thus, if the land use plan is conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission certify Land Use Plan Amendment No. 3-03C as submitted by the City of San Diego (Sunset Pointe).*

STAFF RECOMMENDATION OF DENIAL OF CERTIFICATION:

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Land Use Plan Amendment for the City of San Diego, Mira Mesa community of the North City LCP Segment as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures

that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

II. MOTION: *I move that the Commission certify Land Use Plan Amendment No. 3-03C submitted by the City of San Diego (Sunset Pointe) if modified in accordance with the suggested changes set forth in the staff report.*

STAFF RECOMMENDATION: CERTIFICATION IF MODIFIED AS SUGGESTED:

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification with suggested modifications of the submitted land use plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY SUBMITTED LAND USE PLAN AMENDMENT IF MODIFIED AS SUGGESTED:

Subject to the following modifications, the Commission hereby certifies the Land Use Plan Amendment for the City of San Diego, Mira Mesa Community and finds for the reasons discussed herein that, if modified as suggested below, the submitted Land Use Plan Amendment will meet the requirements of and conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan if modified as suggested below complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

III. MOTION: *I move that the Commission reject Implementation Program Amendment No. 3-03C as submitted by the City of San Diego (Sunset Pointe).*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for City of San Diego, Mira Mesa community of the North City LCP Segment and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does conform with, and is inadequate to carry out, the provisions of the certified land use plan. Certification of the Implementation Program Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment as submitted

PART III. SUGGESTED MODIFICATIONS

Note: These revisions show changes the Commission is suggesting to the LCP as it is proposed to be amended. Text with a single underlining is text proposed by the City as part of this proposed LCP amendment; text with no underlining but that is struck out is text the City is proposing for deletion. Double underlined text is Commission suggested new language or change to City-proposed language. Strike-out with single underline is Commission suggested deletion of City-proposed language. For a complete listing of the City's proposed changes, see pages 12-14, below.

1. Revise the proposed Figure 1 (Land Use Map), Figure 6 (Designated Open Space System), Figure 7 (Recommended Trail System), Figure 8 (Recommended Wildlife Corridors) and Figure 18 (Recommended Residential Densities) to conform to the revised boundaries between open space and residential developable area on the Sunset Pointe property as shown on Exhibit 4. The revised open space line generally follows the rimline or the upper limits of the coastal sage scrub vegetation and native grassland where non-ESHA vegetation extends beyond the rim line, as shown on the biological resources map shown on Figure 4C-2 in the certified EIR.

2. On Page 77 of the certified Mira Mesa Community Plan, revise Residential Densities description as follows:

Very low density: 0-4 dwelling units per gross acres. This density range is proposed for Lopez Ridge and the northeastern coner of the community near Canyon Hills Park. This range is generally characterized by clustered detached single-family or attached multifamily units (such as duplexes and townhomes) built on large hillside parcels that contain relatively small areas suitable for buildings. Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, and protect areas of unique topography and vegetation. Especially when clustering is used on ridgetop and hillside parcels, appropriate zoning should be applied to the developable area which matches the development intensity, with open space zoning applied to the associated open space areas. The R1-10,000 Zone or the R1-5000 Zone if units are clustered to preserve natural open space areas, are proposed to implement this designation. The maximum four units per acre is not

likely to be achieved except on lots that have large areas in slopes of less than 25 percent.

3. On Page 80 of the certified Mira Mesa Community Plan, add the following section under Site-specific Proposals:

e. **Sunset Pointe.** Approximately 37.5 acres (Pardee Homes) located to the west of Camino Santa Fe, south of Calle Cristobal, at the southern termini of Sunny Mesa Road and Lopez Ridge Way, are proposed for a mix of residential housing and open space. The following development criteria shall apply:

1. Any development in the developable area (western mesa top) shall take access from Sunny Mesa Road, with the remainder of the property retained as open space.

2. All open space lands outside the area to be developed shall be preserved through open space deed restrictions or conveyances, and all such areas shall be zoned as OC (open space conservation).

3. Downstream sensitive resources, particularly the remaining populations of the endangered Monardella, shall be protected from the effects of runoff through appropriate on-site detention facilities and stormwater conveyance systems located within the developable area.

4. Grading over the rim of the Los Penasquitos Canyon Preserve shall be prohibited except to access flatter, less sensitive areas on the western mesa top, and only under all of the following specific circumstances:

a. Such grading is the only means to access flatter, less sensitive portions of the site which shall be determined through review of a comprehensive alternatives analysis.

b. Required grading avoids impacts to steep hillsides and sensitive biological resources to the maximum extent possible and such impacts are mitigated in accordance with the Biology Guidelines contained in the Land Development Manual.

c. Flexibility in road design is achieved through use of retaining walls, minimum road width, or other appropriate methods to reduce impacts to steep hillsides and sensitive biological resources to the maximum extent possible.

5. Brush management/fuel modification requirements shall be consistent with the following specific standards:

a. Structures shall be located such that Zone One brush management (minimum width of 35 feet) shall be entirely within the area designated for development and outside open space and environmentally sensitive lands. The width of Zone One should be increased when possible to reduce the width of Zone Two and impacts to native vegetation.

b. Zone Two brush management (selective clearing to maximum width of 65 feet) may be allowed in open space when subject to an approved site-specific brush management plan acceptable to the fire department that avoids significant disruption of habitat values to the maximum extent possible. However, Zone Two brush management within open space areas containing coastal sage scrub habitat and native grassland shall not be permitted. Measures such as replacing cleared or thinned native vegetation with fire-resistive native vegetation that does not require fuel modification and is compatible with the existing habitat, and maintenance of at least 50% of the existing ground cover of native vegetation shall be implemented, when possible, to avoid significant disruption.

6. Impacts to coastal sage scrub habitat and native grassland within open space areas shall be limited to habitat restoration, enhancement and maintenance of restored areas.
7. Public access to the existing informal trails leading down to the floor of Lopez Canyon shall be maintained for public use. Public and/or on-street parking shall be provided.

4. Revise the existing and proposed Development Criteria commencing on Page 107 of the certified Mira Mesa Community Plan, as follows.

1. Grading over the rim of Los Penasquitos Canyon Preserve shall not be permitted, except as may be allowed through application of site-specific policies commencing on Page 80 of this plan, in #12 below...

8. Landscaping adjacent to Los Penasquitos, Lopez, Carroll, or Rattlesnake canyons shall be predominantly native species and non-invasive ...

5. Paragraph 12, as proposed by the City, referenced on Page 107 and to be located on Page 108 of the certified Mira Mesa Community Plan, shall be deleted in its entirety, as follows:

~~12. Development beyond the rim of Los Penasquitos Canyon and/or Lopez Canyon may only be permitted when the proposed development results in an environmentally superior project. An environmentally superior project shall meet the following criteria:~~

- a) The disturbed area for the proposed development is the minimum necessary to allow appropriate development consistent with this plan while implementing an environmentally sensitive alternative. The proposed disturbed area should be sited to cluster development within/adjacent to existing disturbed areas and/or adjacent to existing development.
- b) The impervious areas for the proposed development (e.g. building footprint, driveways, roads and sidewalks) are the minimum necessary to allow appropriate development consistent with this plan.
- c) The proposed development must result in a new increase in the preservation of Tier I habitat and avoid all impacts to wetlands, including vernal pools and their watersheds, and provide adequate buffers to resources consistent with the Environmentally Sensitive Lands regulations contained in the City of San Diego Land Development Code and the Biology Guidelines.
- d) The proposed development must maintain or improve overall habitat value and wildlife movement/corridors.
- e) Slopes encroaching into the canyon must be blended into the natural topography with contour grading and be revegetated with native plants, including the planting of native species from areas proposed for disturbance.
- f) The proposed development must be consistent with the City of San Diego MSCP Subarea Plan.
- g) The site design must not exacerbate erosion/siltation in the watershed and Lopez Canyon by using sensitive grading techniques and best management practices (BMPs). No detention basins shall be located within the MHPA and all facilities must be designed/sited to minimize impacts to open space.
- h) The project must be sited and designed not to significantly impact views from designated open space areas, including trails.

Any development consistent with this section that results in structures being visible from the floor of Lopez Canyon, or encroaches into Plan designated open space shall require an amendment to the Community Plan.

PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE LCP LAND USE PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City of San Diego is requesting to amend the certified North City LCP Land Use Plan (Mira Mesa subarea) policy text in two ways. First, the amendment would change the policies that currently prohibit grading beyond the rim of Los Penasquitos Canyon Preserve to allow encroachment beyond the canyon rim if the development meets certain criteria. In addition, the amendment would delete the current language that references the R-1-5000 and R-1-10,000 zones as the appropriate zones to implement the very low residential density land use designation, which allows 0-4 dwelling units per acre (dua), and replace it with general text referring to a zone that “matches the development intensity, with open space zoning applied to open space areas.”

Second, the amendment would change several land use plan maps which establish the current boundaries between the residential and open space land use designations on a 37.5 acre site known as Sunset Pointe. The site affected by the proposed amendment contains an eastern and western mesa top separated by a north-south trending finger canyon which contains steep hillsides and coastal sage scrub vegetation and leads to the main east-west trending Lopez Canyon. The proposed residential use area would include both mesa tops and the northern portion of the finger canyon to accommodate construction of an access road connecting the mesa top areas and residential units along both sides of the road and along the northern property boundary. The remainder of the site is proposed as open space.

The City of San Diego has approved a coastal development permit for a Planned Residential Development (PRD) called Sunset Pointe in association with the proposed LUP amendment. The proposed LUP revisions would accommodate a residential development as approved by the City to be clustered along the northern boundary of the site across the finger canyon encompassing approximately 11 acres total development area (4.35 ac. for homes; 1.92 ac. for street area; 1.64 ac. for brush management and 2.93 ac. of revegetated manufactured slopes) on the 37.5 acre site. The 30 unit residential development approved by the City is not consistent with current zoning, the land use/open space designations in the certified LUP, and the LUP policy that prohibits grading beyond the canyon rim; thus, an LCP amendment is requested. The residential sites are located to the west of Camino Santa Fe, south of Calle Cristobal, at the southern termini of Sunny Mesa Drive and Lopez Ridge Way, in the Mira Mesa community of North City

Also proposed is an Implementation Plan amendment to rezone all the parcels, which are currently all zoned AR-1-1 (formerly A-1-10), a very low density holding zone requiring minimum 10-acre lots. The Implementation Plan amendment will be discussed in detail later in this report. However, in summary, all proposed permanent open space would be rezoned to OC-1-1, the City’s most restrictive open space zone. Areas to be developed with single-family residential use would be rezoned to RS-1-14. Such a zone would

accommodate the development approved by the City, which includes 30 single family units. Although the zone would allow development of up to 8 duu, the City-approved project for this site attains a density of only 0.8 duu when considering the entire 37.5 acres. Development of 10 acres with 30 units achieves a density of 3.0 duu.

In addition to the LCP amendment request, the associated coastal development permit application is undergoing staff analysis at this time for specific development of this site that has already been approved at the local level. The Coastal Commission will review the proposed subdivision, and portions of the proposed residential development, which are located in areas of deferred certification, at a later date.

B. NONCONFORMITY OF THE LAND USE PLAN AMENDMENT WITH CHAPTER 3 POLICIES OF THE COASTAL ACT

The City of San Diego is requesting to amend the certified Mira Mesa LUP policies addressing development adjacent to canyons. The amendment will also modify several maps to refine the line between designated residential use and open space on an approximately 37.5 acre property. This area of Mira Mesa consists primarily of flat mesas several hundred feet in elevation that abruptly drop off into deep canyons. The canyons were formed by streams that were once intermittent but that now, because of upstream development, run most of the year. The canyon walls are vegetated with a number of different native plant communities, with small areas of disturbance and/or exotic plants also present.

The specific policies the amendment proposes to modify are those addressing appropriate densities for new development, and an existing prohibition on grading over the rim of Los Penasquitos Canyon Preserve. These changes would result in significant modification to the current development pattern in this area of Mira Mesa, a part of the North City LCP segment. With very minor exceptions, typically for drainage facilities, existing development in this area of Mira Mesa occurs only on the flat mesa tops, with the slopes and canyon walls remaining undisturbed, consistent with the existing LUP language specifically prohibiting grading beyond the canyon rim of Los Penasquitos Canyon Preserve, which includes both Penasquitos and Lopez Canyons. The proposed changes would occur on Pages 39, 77, 107 and 108 of the certified Mira Mesa Community Plan, and are shown below:

Page 39: ~~Retain A-1-10 zoning on areas designated~~ Rezone open space areas to a zone appropriate for open space preservation.

Page 77: ... Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, and protect areas of unique topography and vegetation. Especially when clustering is used on ridgetop and hillside parcels, appropriate zoning should be applied to the developable area which matches the development intensity, with open space zoning applied to the associated open space areas. ~~The R1-10,000 Zone or the~~

~~R1-5000 Zone if units are clustered to preserve natural open space areas, are proposed to implement this designation.~~ The maximum ...

Page 107: 1. Grading over the rim of Los Penasquitos Canyon shall not be permitted except as may be allowed in #12 below.

Page 108: 12. Development beyond the rim of Los Penasquitos Canyon and/or Lopez Canyon may only be permitted when the proposed development results in an environmentally superior project. An environmentally superior project shall meet the following criteria:

- a) The disturbed area for the proposed development is the minimum necessary to allow appropriate development consistent with this plan while implementing an environmentally sensitive alternative. The proposed disturbed area should be sited to cluster development within/adjacent to existing disturbed areas and/or adjacent to existing development.
- b) The impervious areas for the proposed development (e.g. building footprint, driveways, roads and sidewalks) are the minimum necessary to allow appropriate development consistent with this plan.
- c) The proposed development must result in a new increase in the preservation of Tier I habitat and avoid all impacts to wetlands, including vernal pools and their watersheds, and provide adequate buffers to resources consistent with the Environmentally Sensitive Lands regulations contained in the City of San Diego Land Development Code and the Biology Guidelines.
- d) The proposed development must maintain or improve overall habitat value and wildlife movement/corridors.
- e) Slopes encroaching into the canyon must be blended into the natural topography with contour grading and be revegetated with native plants, including the planting of native species from areas proposed for disturbance.
- f) The proposed development must be consistent with the City of San Diego MSCP Subarea Plan.
- g) The site design must not exacerbate erosion/siltation in the watershed and Lopez Canyon by using sensitive grading techniques and best management practices (BMPs). No detention basins shall be located within the MHPA and all facilities must be designed/sited to minimize impacts to open space.

h) The project must be sited and designed not to significantly impact views from designated open space areas, including trails.

Any development consistent with this section that results in structures being visible from the floor of Lopez Canyon, or encroaches into Plan-designated open space shall require an amendment to the Community Plan.

As submitted, modifications of this, and other, existing LUP language cannot be found consistent with Chapter 3 of the Coastal Act, as detailed below.

1. Land Use/Concentration of Development. The following Coastal Act policy addresses the appropriate location of new development, and states, in part:

Section 30250.

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. ...

The existing property is generally located south of Calle Cristobal, west of Camino Santa Fe, and north of Lopez Canyon. The site is not directly bordered by either Calle Cristobal or Camino Santa Fe, but would be accessed through an existing subdivision to the north of the subject site; that existing subdivision borders Calle Cristobal, thus, the Sunset Pointe property is technically located south of the Sunny Mesa Road and Lopez Ridge Way cul-de-sacs. Similarly, the proposed Crescent Heights multi-family west subdivision component (addressed in LCPA 3-03B) would be located between the subject site and Camino Santa Fe; however, existing topography and vegetation would not allow access to Sunset Pointe through Crescent Heights. The currently-certified Mira Mesa Community Plan LCP Land Use Plan designates portions of two mesas (ridges) in the northern part of the Sunset Pointe property for residential development and, thus, concentrates development on the flatter portions of the property. The canyon between the eastern and western mesa and the southern portion of the site is designated open space.

The finger canyons leading to Lopez Canyon are below the canyon rim and in the area where the Commission deferred certification of the LCP pending completion of a master plan for the Los Penasquitos Preserve. Since the Commission deferred certification of this area in 1988, the City and Commission staff have used the rim of both Lopez and Los Penasquitos Canyons as the line denoting Commission permit jurisdiction and the area where grading is prohibited pursuant to the certified Mira Mesa LUP. The standard of review for development in this area is Chapter 3 of the Coastal Act.

Section 30250 of the Coastal Act mandates consolidation of development on areas able to accommodate it without significant adverse effects on coastal resources. The currently certified LUP demands the same by concentrating development on the mesa tops and prohibiting grading below the canyon rim. However, the proposed changes to the open space boundary would expand the area where development is to be “clustered”, and the additional area is environmentally sensitive habitat area (ESHA). The development approved by the City and proposed with this LCP amendment would allow fill of the canyon for construction of an access road and residential units along the northern and southern sides of the access road. The LUP revisions would allow impacts to ESHA for residential units and an access road connecting the two mesa top areas, which is inconsistent with Section 30240.

In this particular case, grading beyond the canyon rim would also be necessary to construct access to the flatter, less sensitive portion of the western mesa; however, such access would not impact ESHA. In addition, although the LUP shows the northern portion of the eastern mesa and the narrow ridge extending south in the southern portion of the eastern mesa designated for residential use, development of the ridge would be constrained through application of the ESL regulations that protect steep hillsides and sensitive biological resources. The property owner has shown that three residential units could be accommodated on the eastern mesa without impacts to steep hillsides over the canyon rim. However, the flat portion of the eastern mesa is also entirely comprised of ESHA in the form of native grassland and coastal sage scrub habitat. Therefore, the Commission finds revisions to the LUP open space maps are necessary to reflect the existing resources and topography and concentrate development on the least sensitive portions of this property, i.e. the western mesa top.

To accommodate the development approved by the City, the proposed LUP changes identify development beyond the rim as “appropriate” in some instances. City-proposed criteria, which would indicate an environmentally superior project, must include the minimum amount of disturbance necessary to allow appropriate development. Given the effect on coastal resources of such development, application of Section 30250 would dictate that a development footprint allowing any encroachment beyond the canyon rim and within ESHA is not acceptable and that new development should be appropriately sited on the western mesa top only.

The proposed language changes also refer to the City’s Land Development Code regulations for specific criteria. The LUP should contain enough specificity that it can stand alone, since, pursuant to the Coastal Act, the LUP is the controlling document for decision making purposes, and is the standard of review by which implementation plans are measured.

The proposed text changes would delete reference in the LUP to the R1-10,000 zone and the R1-5,000 zone, if units are clustered, as the suggested zones to implement the very low residential density 0-4 dwelling units per acre (dua) land use designation. As proposed, this language would be replaced with language that states appropriate zoning should be applied to the developable area which matches the development intensity. The

Commission finds the proposed language to be misleading and to suggest the development intensity should be determined before the appropriate zoning of the site is determined and should dictate how the site is to be zoned. This is inconsistent with the system of land use planning required by the Coastal Act, as well as other aspects of State law.

Although the City does not propose to change the definitions of the low and very low density LUP map designations, in this particular case, the zone proposed for implementation of the 0-4 du/d acre land use designation would accommodate up to 8 du/d acre (RS-1-14). This zone would not typically be used to denote very low density, but is generally considered more in the medium density range. However, it was chosen by the City because it corresponds best to the specific development proposal it has already approved with respect to housing type, minimum lot size, setback requirements, etc. To allow more potential flexibility in future zone selection, the proposed LUP amendments delete the reference to any specific zone. The Commission finds that change to be acceptable, as the specific zones are normally designated in the IP rather than the LUP. However, the Commission finds the City's proposed replacement language is not necessary to allow consideration of the range of residential zones offered in the LDC as potential zoning, taking into consideration the land use designation and other applicable policies of the LUP. Moreover, as indicated above, it appears to reverse the appropriate order in which land use decisions are made. Therefore, it should be deleted.

In summary, the Commission finds that the LUP changes proposed by the City would accommodate development in areas resulting in significant adverse effects on coastal resources, which is inconsistent with Section 30250 of the Act. Thus, the proposed LUP must be denied. Nevertheless, the Commission believes that, with modifications to the proposed amendments, residential development consistent with all plan policies and still allowing a higher concentration of development in limited areas can occur. Suggested modifications to accommodate this will be discussed in Part V of this report.

2. Environmentally Sensitive Habitats/MHPA. The potential impacts to environmentally sensitive habitat area (ESHA) associated with the proposed LUP amendment would occur through the significant changes being proposed to the line which separates areas designated for residential use and open space. The revised line would change the land use designation of the upper portion of a large finger canyon within the Los Penasquitos Preserve system containing ESHA and steep hillsides from open space to residential. These areas to be removed from open space contain coastal sage scrub and are currently protected by the Environmentally Sensitive Lands regulations in the certified Land Development Code (LDC) and the Multi-Habitat Preserve Area (MHPA) identified in the City's Multiple Species Conservation Program (MSCP). Prior to the LDC, the steep hillsides that contain coastal sage scrub were protected by the Hillside Review Overlay Zone. The LDC defines environmentally sensitive lands (ESL) to include sensitive biological resources, steep hillsides, floodplains, coastal bluffs and beaches. The term environmentally sensitive lands is not the same as environmentally sensitive habitat area or ESHA addressed in Section 30240 of the Coastal Act. For

instance, Tier I through Tier IV vegetation is considered sensitive biological resources and regulated through the ESL regulations; however, not all Tier I – IV vegetation is ESHA.

Regarding the relationship of the certified LCP to the MSCP, several years ago, in response to significant fragmentation of habitat and accelerated loss of species, the state legislature adopted a law to address conservation in a regional manner, instead of property by property. The objectives of the southern California Natural Communities Conservation Program (NCCP) include identification and protection of habitat in sufficient amounts and distributions to enable long-term conservation of the coastal sage community and the California gnatcatcher, as well as many other sensitive habitat types and animal species. Generally, the purpose of the HCP and NCCP processes is to preserve natural habitat by identifying and implementing an interlinked natural communities preserve system. Through these processes, the resource agencies are pursuing a long-range approach to habitat management and preserve creation over the more traditional mitigation approach to habitat impacts. Although plans have been prepared for areas as small as a single lot, the Multiple Species Conservation Program (MSCP) and its subarea plans are intended to function at the citywide or regional level, instead of focusing on impacts to individual properties. For the City of San Diego, the actual preserve lands are referred to as the Multiple Habitat Preserve Area (MHPA). Sensitive lands within the MHPA are identified as Tier I through Tier IV lands, with Tier I being the rarest and/or most sensitive.

Implementation of the MSCP or large-scale approach to habitat conservation in this area without any other restrictions would allow some development involving incidental take of listed species and/or environmentally sensitive habitat in those areas where it has been deemed to be most appropriate, in order to preserve the largest and most valuable areas of contiguous habitat and their associated populations of listed species. Although the goals of the NCCP processes include maintenance of species viability and potential long-term recovery, impacts to habitat occupied by listed species are still allowed. This approach differs from the more restrictive Coastal Act policies regarding Environmentally Sensitive Habitat Areas (ESHA), which apply within the Coastal Zone. Those policies provide that, when a habitat must be considered environmentally sensitive (e.g., because it has become especially rare and/or provides crucial habitat for listed species), uses of the habitat should not be allowed except for uses that are dependent on that resource.

As proposed by the City, the amendment request would allow significant impacts on ESHA, which are not consistent with Section 30240 of the Coastal Act. The City's certified LCP does not use the term ESHA, but, as stated previously, regulates sensitive biological resources through the ESL regulations and the Biology Guidelines of the certified Land Development Code (LDC).

Pursuant to the Coastal Act, the Commission determines what is ESHA both by habitat type and function. Because of the criteria the City use for identifying Tier I and Tier II habitat, most areas that are identified by the City as Tier I or Tier II habitat constitute ESHA under the Coastal Act, particularly when they are undisturbed, high quality habitat

used by listed species and/or contiguous with other ESHA or located within wildlife corridors. In this particular case, there are areas vegetated with native grassland (Tier I) and coastal sage scrub (Tier II) on the western mesa that have been disturbed and degraded through introduction of non-native species. The report dated 1/4/05 prepared by Natural Resource Consultants indicates less than 35% of the plant cover is native vegetation in areas identified as Polygons 1, 2, 3, 4 5 and 7 located on the western mesa. Although there is Tier I and II vegetation present, the Commission's staff ecologist has determined the vegetation in these areas does not meet the definition of ESHA. However, according to the report, vegetation on the eastern mesa in Polygons 6, 8, 9 and 10 are considered high quality and from 75% to 100% native vegetation. These areas are considered ESHA and protected by Section 30240 of the Coastal Act.

A number of different Coastal Act policies address potential impacts on sensitive biological resources. These will be cited in the appropriate subheadings below:

UPLAND HABITATS

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The property involved in these proposed LUP and IP changes contains significant areas of sensitive upland vegetation, including areas of up to ten different sensitive upland communities of coastal sage (six communities), chaparral (one community), both native and non-native grasslands and one area of mixed coastal sage and native grasslands. There is coyote bush scrub in the lower reaches of the on-site canyons, though far removed from any proposed development. In addition to the presence of several sensitive habitat types, the coastal sage and associated upland communities are home to a number of sensitive and and/or listed plant and animal species, including the San Diego Coast Barrel Cactus, Coastal California Gnatcatcher, Ashy Spike-Moss and Southern California Rufous-Crowned Sparrow. These species occur on both the portion of the property proposed as open space and the portion proposed for development.

Native grasslands are very rare, and are identified as a Tier I habitat in the City of San Diego's MSCP. Tier I habitats are considered those that are rarest and most valuable for the overall preservation of sensitive plants and animals. Grasslands provide foraging area for many species, and are particularly valuable for raptors as hunting fields. Non-native grasslands, a Tier IIIB habitat, are considered less valuable than the native grasslands, but still perform many of the same biological functions. Nearly all the identified non-native

grasslands on the Sunset Pointe site occur within the proposed residentially-designated areas; more significantly, over half of the native grasslands are located within the proposed residential footprint.

Likewise, the various coastal sage communities are scattered throughout the site, and even the same vegetative communities would rank differently from place to place in terms of native cover and habitat value. More of the coastal sage vegetation occurs outside the proposed developable area, but there are still over four acres of coastal sage identified within the proposed residential boundaries. Based on site surveys conducted during preparation of the EIR, there is one gnatcatcher pair on the property, but it is located well away from proposed development areas. Several sightings of Rufous-Crowned Sparrows, however, occur within the proposed development area, as do individuals of both Coast Barrel Cactus and Ashy Spike-Moss. Moreover, although the one gnatcatcher sighting was not within 500 feet of the area delineated for residential development in the proposed LUP amendment, the habitat types where the gnatcatchers were seen extend into the project footprints. It would be difficult, and probably inaccurate, to say the project site is not occupied, at least for foraging and resting purposes. Moreover, the project approved by the City would remove 9.3 acres of foraging habitat for birds of prey and range land for mule deer.

The Sunset Pointe subdivision proposal, which is dependent upon this proposed LUP amendment and rezone, would result in the direct loss of 4.08 acres of coastal sage scrub, 2.01 acres of native grasslands, and 1.46 acres of non-native grasslands. The cited impacts given above are typical of what would be allowable for any potential development built consistent with the proposed LUP revisions and rezones. The potential loss of these habitats is all the more significant as they are part of a natural canyon system that supports sensitive species and represents one of the few remaining natural urban greenbelts in San Diego.

With respect to the proposed LUP map changes, these are intended to redraw the boundaries between currently designated residential areas and areas of designated open space. Although in the past the Commission has reviewed similar changes proposed as a means to more accurately depict the actual topography and vegetation of the sites, in this particular case, the proposed changes would actually accommodate a significant amount of future development within existing canyons and ESHA.

The proposed project as approved by the City would also adjust the existing boundary of the Multiple Habitat Planning Area (MHPA), resulting in a net loss of approximately 2 acres of lands covered by the MHPA. The revised MHPA boundary would be co-terminus with the boundary between residential and open space as proposed by the City on the revised LUP map.

The Commission must review the LUP and IP amendments independent of any specific development plan and analyze the maximum impacts a proposed project could have if built consistent with the development criteria in the proposed LUP policies and implementing zones. The particular project approved by the City may never be built, but

the parameters accommodating it will remain part of the City's LCP to dictate other development proposals in the future.

The proposed amendment (in conjunction with the accompanying amendment #3-03B) would be the first time the Commission will act on a request to modify the residential/open space boundary in a manner that decreases the existing habitat values of the property being protected. Coastal sage communities would be removed from the existing open space and MHPA boundaries and incorporated into the future development footprint. The areas being added to the preserve do not include areas where sensitive species have been sighted, whereas the areas lost contain Rufous Crowned Sparrows and San Diego Coast Barrel Cactus.

In summary, areas of sensitive vegetation that are currently protected as open space, will no longer be protected if the amendment is approved, including ESHA containing coastal sage scrub adjacent to, and contiguous with, occupied gnatcatcher habitat. The proposed project footprint would also displace or destroy a significant number of the other identified sensitive plant and animal species that are located, again, in areas that are now designated open space, but which would be within the developable area if the LUP amendment is approved. The Commission has, in the past, approved a few modifications of the open space/MHPA line, but, in those instances, the modification resulted in more habitat of equal or better quality being protected, and was based not on proposed project design but on the locations of on-the-ground resources. As submitted, the Commission cannot support the revised line between developable area and open space, as it would not be consistent with Section 30240 of the Coastal Act.

WETLAND HABITATS/WILLOWY MONARDELLA

Another wetland concern is protection of the willowy Monardella (*Monardella linoides* ssp. *Viminea*), which is a riparian subshrub species that grows on sandy terraces in seasonally dry washes. It is found only in San Diego County and Baja California, Mexico, and is declining rapidly in San Diego due to urbanization. Urbanization increases runoff, primarily through decreasing permeable surfaces and planting/irrigation practices, and many canyon streams that were once ephemeral now flow all, or nearly all, year long. Areas that were only subject to occasional erosion during major storms or floods now see some level of erosion during nearly every rain event. The San Diego County population of Monardella has dwindled to a few scattered locations within the northern part of the city, including two small areas in Lopez Canyon downstream from the subject properties; as comparison, a biological survey conducted in 1982 in conjunction with a different project located 14 distinct populations of this species in Lopez Canyon.

In Lopez Canyon, increased flows have caused all sediments to wash downstream, and the entire streambed, with the exception of some small remaining islands, is now cobble. Although Lopez Creek is still usually dry part of the year, the banks of these islands are being eroded away bit by bit. The Monardella requires the very specific micro-habitat that these islands/terraces provide. There have been a few attempts to transplant the

species, but none have been successful. Thus, the species is identified as endangered on both the federal and state lists, and the California Department of Fish and Game (CDFG) has determined that all remaining individuals and colonies must be protected in place.

The subject property is located on the north side of the Lopez Canyon floodplain, and future stormwater flows from those properties will be directed into Lopez Creek. As previously discussed, a number of sensitive habitat types are present within the canyon bottom, including the monardella, and on the canyon slopes. The type and location of future drainage facilities may be critical to the survival of the monardella. The Commission recently approved a coastal development permit (#6-03-039) to install protective devices to prevent further erosion of the “islands” where the remaining monardella exists. The erosion rate is directly linked to the amount and velocity of stream flow, which, outside of major storm events, is dictated by the amount of upstream impervious surfaces and the upstream residents’ practices with respect to irrigation, car-washing, and the recreational use of water (pools, spas, etc.).

In 1983, the Commission approved a permit for construction of a stormwater detention and conveyance system for Lopez Canyon. The detention facility is the Montongo Basin, which is located near the head of Lopez Canyon, approximately a mile upstream of the Crescent Heights property. The piping system runs through the canyon bottom, with lateral pipes extending into many of the side canyons to serve mesa top development. The basin was sized to assure no overall increase in peak runoff from the build-out of Mira Mesa. Because much of the buildout occurs west (downstream) of the basin, the basin itself is designed to overcompensate for development to the east to achieve the overall goal of no net increase.

Although this system assures that the actual amount of water reaching downstream resources does not increase, it does little to address the issue of water velocity and erosion potential due to runoff from the Sunset Pointe site. These are the factors of concern when considering preservation of the downstream Monardella populations. There is nothing in the currently-certified LUP that addresses this particular issue, nor is anything proposed in this amendment request. Thus, the Commission finds the proposed amendment accommodating significant development on the Sunset Point site does not adequately protect downstream sensitive and endangered resources.

In summary, the proposed amendments are inconsistent with the cited resource protection policy of the Coastal Act as they would allow extensive destruction of ESHA in several locations, where alternatives with significantly fewer environmental impacts are feasible. The proposed amendments accommodating increased densities, and thus runoff, on the subject site would also threaten downstream endangered resources. Therefore, the Commission finds the proposed LUP amendment must be denied as submitted.

3. Hazards/Brush Management. The following Coastal Act policy is most applicable to the proposed development, and states in part:

Section 30253

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. ...

The potential effects of brush management on biologically valuable habitat must not be underestimated and the potential for wildfire at the subject site warrants brief discussion as well. The areas to be designated for single-family development are immediately adjacent to naturally vegetated steep slopes that are part of a large canyon system. It is very likely that future development on this site will be threatened by fire sometime during the economic life (approximately 75 years) of such development. This is true, however, for most new development throughout the City of San Diego and indeed Southern California. Population increases have forced new development ever further into undisturbed and topographically constrained areas. Specific fire safety design criteria are not currently discussed in the certified LUP for the Mira Mesa community. However, design criteria in the Land Development Code address this concern and requires specific building elements and setbacks in fire-prone areas.

In the certified LDC regulations currently require different brush management zone widths depending on the site's location east or west of Highway 805 and El Camino Real. West of 805, Zone One is required to be 20-30 feet and Zone Two is 20-30 feet. East of 805, Zone One is 30-35 feet and Zone Two is 40-50 feet. These regulations were in place prior to last October's devastating wildfires in San Diego County. Based on these events, and in anticipation of a challenging upcoming fire season, the Fire Chief is recommending a minimum 100-foot brush management zone be applied citywide, including a minimum 35 feet of clear-cut (Zone One) and 65 or more feet of selective clearance and thinning (Zone Two).

The City is currently reviewing its brush management regulations, and will be bringing forth an LCP amendment to incorporate modifications in the near future. These will address all habitable structures within a *High Fire Hazard Area*, as well as accessory structures measuring more than 120 sq.ft. in size and located less than 50 feet from any habitable area. The City's proposed code changes define *High Fire Hazard Area* as "any open space, park area, undeveloped public or private lands containing native or naturalized vegetation, and areas containing environmentally sensitive lands." The potential changes would also require new habitable structures to incorporate fire prevention construction materials, including sprinkler systems, non-combustible roofs and garage doors, and special exterior treatments for eaves, skylights, gutters, etc.

The current Mira Mesa LUP was certified in 1993. Due to its age, it includes no specific references to brush management, only general policies protecting the steep hillsides and sensitive resources to the maximum extent possible, and requiring new development on the mesa top to be very low density and clustered in a manner to preserve those hillsides. More recent LUP certifications, such as Del Mar Mesa and Pacific Highlands Ranch, two subareas of the North City Future Urbanizing Area, have addressed brush management issues on a limited basis and have established clear boundaries between developable area and open space.

In current form, the certified LDC regulations identify Zone One clear-cut, which removes all portions of vegetation above the ground, as an adverse impact (i.e., an encroachment) if it occurs within sensitive areas; however, Zone Two which allows removal of up to 50% of the overall cover has, in the past, been considered “impact neutral” (i.e., neither detrimental nor beneficial to habitat function). More recently, in its actions on Dana Point LCP Amendment #1-03 (Dana Point Headlands) and the Marblehead development (CDP #5-03-013), the Commission has found that fuel modification which includes selective thinning, clearing and/or replacement of cleared vegetation with fire-resistant vegetation to be an unacceptable impact within ESHA. Such activities are not resource dependent and are not compatible with the continuance of these habitat areas. Fuel modification also places long-term management constraints on the conserved habitat, and replacement vegetation may not include species important to the sensitive habitat value.

In addition, selective thinning or deadwood removal is difficult to implement without changing the understory character of the habitat or having impacts on the health of individual plants that remain. Deadwood removal also requires periodic disturbance to the habitat. Finally, since coastal sage scrub vegetation is woody and seasonally dry, it is difficult, at best, for trained experts to confine deadwood removal to truly “dead” wood on these inherently dry, woody plants. Rather, the deadwood removal would amount to trimming and thinning of the habitat and not merely removal of dead stems of individual plants. These impacts are not compatible with the continuance of the habitat areas and must be prohibited within ESHA.

The current LUP amendment request does not propose any language to address brush management, and, since the accompanying project was approved at the City level prior to the October, 2003 fires, the local approvals only require a 30-foot setback for principal structures from the boundary with open space. If the proposed regulation changes occur, the new standards, applied to the locally-approved companion subdivision, would allow up to 70 feet of a combination of Zones One and Two brush management within dedicated open space and the MHPA. Although this may not be preventable when addressing existing development’s fire safety requirements, the LUP can be modified to require new development to accommodate adequate building setbacks to avoid significant brush management impacts within open space and ESHA.

In this particular case, all of the habitat within open space and adjacent to potential development sites is not ESHA and, as such, some areas could accommodate Zone Two

brush management measures without conflicts with Section 30240 of the Coastal Act. However, such specific measures should be included in the LUP amendment to address setbacks, assure fire safety for new development and limit significant and disruptive impacts to sensitive resources within the adjacent open space areas. Thus, as submitted, the proposed LUP amendment is not consistent with Section 30240 and 30253 of the Coastal Act.

4. Water Quality. The following Coastal Act policy addresses this issue:

Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The subject site is located within the Los Penasquitos Lagoon watershed, and the area to be developed in the future is located north and upland of the streambed of Lopez Creek, and south and upland of the streambed of Penasquitos Creek, on top of the adjacent mesas. The proposed LUP amendment will not result in any direct changes in water quality because no physical improvements are approved at this time. However, the proposed LUP amendments set the stage for intense residential development in this location, which will significantly increase the amount of impervious surfaces. Moreover, the amendments, as submitted by the City, would allow grading beyond the rim of the canyon, including placement of fill within canyons, again increasing runoff potential.

Due to the age of the subject certified LUP, water quality was not discussed as a major concern at the time of Commission review. This issue has gained prominence in recent years, and newer LUPs include specific water quality standards. Since this LUP amendment addresses only a few specific policies, and does not represent a more general update, it would not be appropriate to add a significant number of new policies through this Commission action. Moreover, the City's Land Development Code includes detailed water quality regulations, which are ultimately reviewed by the State Water Resources Board.

5. Visual Resources. The following Coastal Act policy addresses this issue:

Section 30251.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to

minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Existing LUP policies addressing visual resources are not proposed for modification. Existing policies address the visibility of new development from the streambeds of Lopez and Penasquitos Creeks, appropriate setbacks, appropriate building materials and colors and landscaping. Some portions of this site are currently visible from the streambed, and future development could increase this visibility. These policies will continue to direct development, and will be applied to any proposed projects on the subject site. Thus, the proposed LUP amendment is not inconsistent with the visual resource policies of the Coastal Act.

6. Public Access and Recreational Use

The following sections are applicable to the proposed LCP amendment and state:

Section 30212.5.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213.

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30223.

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would

significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The subject site is currently vacant land that, based on the number of footpaths across the site, has been and is currently used by members of the public to gain access to Los Penasquitos Canyon Preserve and to experience the open space vistas afforded from the property. A master plan for the preserve system has not yet been developed and is one of the reasons that area was not included within the certified LCP and certification is deferred.

The certified LUP indicates "a trail system is proposed in Los Penasquitos Canyon Preserve as part of the Preserve Master Plan to provide access to equestrians and hikers. The trail system is a concept plan only and will be refined during environmental analysis to avoid sensitive areas of the Preserve." (page 51). General locations for these trails are shown on Figure 7 in the LUP and include the floor of Lopez Canyon as one of the main trail locations.

Given that Lopez Canyon is designated as a primary access point within the Los Penasquitos Preserve, the Commission must assure public access to such lower cost public recreational facilities is maintained. Development of the western mesa could be done in such a manner as to eliminate an opportunity to provide a formal public access point or vista point within the adjacent Preserve system. The LUP should contain policies that provide for access points and support facilities, such as parking, to the ultimate trail system proposed for the Preserve. As such, as submitted without specific language addressing provision of public access to the adjacent public recreational areas, the proposed LCP amendment does not meet the requirements of Sections 30212.5, 30213 and 30223 and 30240 of the Coastal Act.

PART V. FINDINGS FOR APPROVAL OF LCPA NO. 3-03C FOR THE CITY OF SAN DIEGO (SUNSET POINTE) LAND USE PLAN, IF MODIFIED

Although the LUP amendment, as submitted, has been denied as inconsistent with numerous Chapter 3 policies of the Coastal Act, modifications have been suggested that would allow the Commission to approve the amendment request. With adoption of the suggested modifications, identified impacts on biology, visual resources, fire safety, water quality and land use can be avoided or minimized when the site develops in the future under the policies of the LUP.

B. BREAKDOWN OF INDIVIDUAL SUGGESTED MODIFICATIONS

Suggested Modification #1 addresses corrections to several of the LUP maps. It requires revision of the identified maps to be fully consistent with the resources on-the-ground on the Sunset Pointe property. As proposed by the City, areas of sensitive habitats, including ESHA, would be included in the developable areas of the site. This cannot be found consistent with Section 30240 of the Coastal Act.

As modified and addressed in the revised map required by Suggested Modification #1, the Commission would allow changes to the open space boundary that would protect the high quality native grassland and coastal sage scrub (Tier I or Tier II) habitat on the Sunset Pointe property within the open space designation. The lower quality habitat and disturbed areas found on the western mesa would be designated for residential use. Access to the western mesa can be achieved from Sunny Mesa Road without encroaching into the high-quality coastal sage scrub slopes on the western wall of the finger canyon; however, some encroachment onto slopes in excess of 25% grade (steep hillsides in the ESL regulations) containing non-native grasslands and native vegetation within the residentially-designated portion of the property will be necessary to construct an access road serving the flatter portion of the mesa.

Development of the western mesa will be subject to the steep hillside regulations in the LDC. In addition, site-specific criteria for development have been added to the LUP in Suggested Modification #3 to allow grading over the rim to construct access to the flatter, less sensitive portions of the site when such grading is the least environmentally damaging alternative and steep hillsides and sensitive biological resources (as defined in the ESL regulations) are avoided to the maximum extent possible. Such construction can occur without impacts to ESHA contained within the designated open space.

One purpose of the amendment and the Commission's suggested modifications is to make the land use and zoning boundaries consistent, such that land designated open space is ESHA and all developable area is not. Although the City's MSCP subarea plan is not part of the certified LCP, the MHPA is referenced in several certified land use plans, including being depicted on LUP maps, and forms the basis for the City's environmentally sensitive lands regulations in the certified LDC. The City's proposal would make the MHPA and open space boundaries co-terminous; however, the only changes to the open space/MHPA boundary that would be consistent with the Coastal Act are those that would be more protective of significant habitat, i.e. native grasslands and coastal sage scrub, than the current boundary.

Thus, the Commission finds that the only acceptable modifications of the open space/MHPA line that would remove area from open space/MHPA are in instances where the line was incorrectly drawn in the first place. For instance, the open space need not include mesa top and canyon rim areas that do not contain native grasslands, coastal sage scrub or steep hillsides. In this particular case, the current MHPA line does not reflect the resources on the ground to any greater degree than the open space line shown in the certified LUP. It appears the lines were drawn as rough approximations relating to topography and not habitat. In most cases, the most sensitive habitat is on the steep hillsides; however, the eastern mesa is an exception because it contains undisturbed high quality native grasslands. Such areas are even more rare because such flatter areas, regardless of habitat quality, have been developed since they have not historically been protected by the LCP. This LUP amendment is an opportunity to designate areas that are ESHA and protected by the Coastal Act as open space based on on-the-ground resources. Such changes should be made to the LUP to guide and direct application of the certified ESL regulations in a manner consistent with the Coastal Act.

Suggested Modification #1 requires modification of the LUP maps such that all high quality native grasslands and coastal sage scrub identified as Polygons 6, 8, 9 and 10 by Natural Resource Consultants will remain protected, or, if not protected now, will become protected through the open space designation. The modification may also protect some less sensitive habitat which are on steep hillsides and contiguous with native grasslands and coastal sage scrub, which also perform important biological functions. The revised open space line generally follows the rimline or the upper limits of the coastal sage scrub vegetation and native grassland where non-ESHA vegetation extends beyond the rim line, as shown on the biological resources map shown and Figure 4C-2 in the certified EIR. In addition, any development of steep hillsides is still regulated by the ESL regulations of the LDC and the LUP policy prohibiting grading beyond the canyon rim. Brush management allowable within open space areas is addressed in Suggested Modification #3 and discussed below. As modified, the LUP maps would be consistent with Coastal Act section 30240.

Suggested Modification #2 addresses the description of very low density residential development found on Page 77 of the certified LUP. The proposed amendment would remove references to the R1-10,000 and R1-5,000 Zones, which are no longer part of the City's municipal code. When the old code was replaced with the Land Development Code in 2000, all zone names were changed and a significant number of completely new zones were added. The City added new zones to provide greater flexibility/creativity in site design, because much of future development will occur in biologically and topographically constrained areas of the City, both inside and outside the coastal zone. The wider range of zones was intended to encourage the concentration of development and maximization of open space by allowing zones to be chosen for reasons other than density alone.

In place of the references to the now-obsolete R1-10,000 and R1-5,000 Zones, the City's LCP amendment proposes a requirement that the zoning chosen should match the development intensity of the site, with open space zoning applied to open space areas. The Commission finds the proposed statement is confusing and not necessary to adequately direct future zoning and development pattern of the remaining sites zoned A-1-10 in the Mira Mesa community. Moreover, the certified requirement that areas designated for very low density development can only be developed with 0-4 dwelling units per acre is not changed through this amendment, and will continue to provide a cap on the actual density allowed on any given site, yet allow the City to use higher density zones if other criteria of those zones are more suitable to the site. Since the LUP is the controlling document, the land use designation in the LUP will take precedence over specific zone criteria should there be a conflict between the two.

As stated above, Suggested Modification #3 adds specific development criteria for the Sunset Pointe property on Page 80 of the certified LUP. This is warranted due to specific resources on the site and its topography. Subsection 1 requires residential development to be cluster on the western mesa taking access from Sunny Mesa Road. The western mesa is the least sensitive portion of the property and contains adequate buildable area to

allow reasonable use consistent with the certified LCP and Coastal Act. Subsection 2 assures the remaining open space lands will be preserved in perpetuity as open space. Subsection 3 includes criteria to assure protection of downstream wetland species including the Monardella located within Lopez Canyon. Development measures such as an on-site detention basin and 100 drainage controls must assure protection of these sensitive resources consistent with Section 30231 and 30240.

The next set of site-specific development criteria (subsection 4 a-c) in Suggested Modification #3 allows an exception to the LUP policy prohibiting grading beyond the rim of the canyon. This exception is necessary to allow access to the developable portions of the sites designated for residential development in the certified LUP. As discussed above, no impacts to ESHA will result from construction of road access to the western mesa.

The development criteria in subsection 5 address brush management or fuel modification requirements to be applicable to any development proposed on the Sunset Pointe property. Based on recent Commission action on two large residential subdivisions in Orange County, the criteria assure that the development is located in a manner that avoids impacts to ESHA for all brush management measures required to meet the fire department standards, i.e. minimum 100 ft. distance from structures. The policy acknowledges that, when possible, all brush management should be located outside open space areas. However, at a minimum, a 35 foot Zone One must be accommodated within the developable area and outside designated open space. The width of Zone One should be increased when possible to reduce the width of Zone Two and impacts to native vegetation.

In this particular case, there are areas of open space immediately adjacent to residential development area that do not contain ESHA. These areas could accommodate Zone Two brush management measures without conflicts with Section 30240 of the Coastal Act. The criteria require that any fuel modification or brush management measures within designated open space should be implemented in accordance with an approved brush management plan acceptable to the fire department that minimizes disruption of existing habitat values to the maximum extent possible. Measures such as replacing cleared or thinned vegetation with fire-resistant native vegetation that does not require fuel modification and is compatible with existing habitat, and maintenance of at least 50% of the existing ground cover are encouraged.

However, those impacts would not be acceptable within ESHA vegetation which, on this particular site, is native grassland and coastal sage scrub habitat, because such impacts are not resource dependent. Accordingly, new development must be sited with sufficient setbacks (e.g. combustible free defensible space, irrigated zones and thinning zones), buffering elements (e.g. walls), appropriate construction methods and materials, and other fire safety measures contained entirely within the development footprint and entirely outside ESHA.

Subsection 6 addresses impacts that are permitted within ESHA or those native grasslands and coastal sage scrub habitat preserved in open space on this site. The Commission acknowledges there may be some areas of the native grasslands and/or coastal sage scrub vegetation that are suitable for restoration or enhancement. The prohibition on fuel modification/brush management measures within ESHA does not limit the implementation of habitat restoration and maintenance measures that are wholly and exclusively for habitat management purposes. In addition, maintenance of those restoration areas must be allowed to occur entirely independent from fire safety requirements to serve adjacent new development. The habitat must be allowed to fully develop, and the suggested language acknowledges that habitat restoration and enhancement and maintenance of the restored areas are the only allowable impacts within ESHA.

The last site-specific criterion, Subsection 7, indicates public access to the existing informal trail leading down to the floor of Lopez Canyon shall be maintained for public use. The subject site is currently vacant land that, based on the number of footpaths across the site, is used by members of the public to gain access to Los Penasquitos Canyon Preserve and to experience the open space vistas afforded from the property. A Master Plan for the Preserve system has not yet been developed and is one of the reasons that area was not included within the certified LCP and certification is deferred.

The certified LUP indicates the floor of Lopez Canyon to be a main component of the trail system for Los Penasquitos Canyon Preserve. Given the Lopez Canyon is designated as a primary access point within Los Penasquitos Preserve, the Commission must assure public access to such lower cost public recreational facilities is maintained and that adjacent development is compatible with the continuance of such public recreational areas. As such, Subsection 7 includes the requirement that in connection with any future development of the site, public access through the site to the Preserve should be maintained and the street system should provide upland support facilities, such as parking, consistent with Section 30212.5, 30213, 30223 and 30240 of the Coastal Act.

The Suggested Modification #4 augments and updates existing development criteria on Page 107 of the certified Mira Mesa Community Plan that apply to development adjacent to Los Penasquitos Preserve. It acknowledges the exceptions to the prohibition on grading over the canyon rim for the Sunset Pointe property, and clarifies the prohibition applies to the rim of Los Penasquitos Canyon Preserve, which includes both Lopez and Los Penasquitos Canyons in the coastal zone. It also updates an existing policy that requires predominantly native species to acknowledge the problems associated with introduction of invasive species into the environment. The revision would allow only non-invasive species in association with development adjacent to the preserve to meet the requirements of Section 30240. The revisions accommodate the site-specific grading exception for Sunset Pointe and add “non-invasive” as a requirement for landscaping adjacent to canyons.

Suggested Modification #5 deletes in its entirety one of the requested amendments to the LUP. As proposed by the City, grading over the rim of the canyons would be allowed in

certain circumstances, and these provisions would be applied to the community as a whole. The Commission finds it is not appropriate to allow a blanket exception for the entire community when it is not known at this time if any other properties in the community have the same constraints as Sunset Pointe. The proposed language would allow application of the exception to any project determined to be “environmentally superior.” Many projects could be “environmentally superior” without being the least environmentally damaging alternative. This raises a significant potential for misinterpretation or application of the proposed exception in a manner inconsistent with Chapter 3 of the Coastal Act.

The Commission finds the LUP amendment, if modified as suggested, would be consistent with Section 30213, 30231, 30240, and 30250 of the Coastal Act. The City has proposed, and the Commission has further modified, revisions to the LUP policies, and LUP maps, which establish a hardline boundary between developable and open space areas that protects the most sensitive habitat on the site and concentrates development in the least sensitive area. Therefore, the Commission finds that, with the suggested modifications included herein, the LUP amendment is consistent with applicable Coastal Act policies.

PART VI. FINDINGS FOR REJECTION OF LCP IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The proposed Implementation Plan amendment would rezone all the parcels, which are currently zoned Agricultural-Residential (AR-1-1), a very low density holding zone (minimum 10-acre lots). The A-1-10 zone of the old Municipal Code converted to the AR-1-1 Zone in the Land Development Code, which went into effect in the coastal zone on January 1, 2000. All proposed permanent open space would be rezoned to Open Space-Conservation (OC-1-1), the City’s most restrictive open space zone.

Areas to be developed with single-family residential use are proposed to be rezoned to Residential RS-1-14 which is one of many single-family residential zones in the certified LDC. This zone was chosen primarily for its 5,000 sq.ft. minimum lot size, the smallest minimum lot size of any single-family zone.

In addition, the IP amendment includes changes to the zoning map to correspond to the proposed LUP map changes to the open space/residential boundaries.

B. SUMMARY FINDINGS FOR REJECTION

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. Whereas here, an amendment to the certified LUP was conditionally certified, the standard of review for the proposed change to the zoning is the conditionally certified LUP. 14 C.C.R. § 13542(c).

The proposed zone, RS 1-14 corresponds to the R-1-5000 zone in the old Municipal Code and along with application of the resource protection policies and very low density residential land use designation in the LUP, may be able to carry out the conditionally certified LUP. However, the Commission finds it is premature to select a revised zone for the property at this time. The Commission action on the conditionally certified LUP has made significant changes to the area available for development. As stated above, the certified LUP contains a range of residential zones that would be available to accommodate reasonable use of the property, given the highly constrained nature of the site. Thus, the Commission finds, for the reasons stated below, the proposed rezone to RS-1-14 should be denied at this time.

C. SPECIFIC FINDINGS FOR REJECTION

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

RS-1-14 Zone

a) Purpose and Intent of the Ordinance. As stated in the Land Development Code (LDC): “The purpose of the RS zones is to provide appropriate regulation for the development of single dwelling units that accommodate a variety of lot sizes and residential dwelling types and which promote neighborhood quality, character, and livability. It is intended that these zones provide for flexibility in development regulations that allow reasonable use of property while minimizing adverse impacts to adjacent properties.”

b) Major Provisions of the Ordinance. The specific RS-1-14 Zone primarily provides for:

1. Minimum 5,000 sq.ft. lots with one home per lot;
2. Recreation and open space enjoyment;
3. Small residential care facilities and transitional housing;
4. Other uses complementing residential use, with discretionary permits;
5. Regulations for setbacks, height, parking, FAR, etc.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The certified LUP identifies this site for very low density residential and open space. The proposed RS-1-14 and OC-1-1 Zones are consistent with the intent of those designations and may be appropriate to carry out their implementation. However, the Rezoning Map B-4149 shows the boundary between the zones in an area that does not protect all the ESHA on the property. It is the same boundary as shown on the proposed LUP maps, and is unacceptable for all the reasons stated previously. Moreover, drawing the boundary in this location is specifically inconsistent with the following Mira Mesa Community Plan LUP policies:

Policy 1.a. states:

Sensitive resource areas of community-wide and regional significance shall be preserved **as open space**. (*emphasis added*)

Policy 4.c. states:

No encroachment shall be permitted into wetlands, including vernal pools. Encroachment into native grasslands, Coastal Sage Scrub, and Maritime Chaparral shall be consistent with the Resource Protection Ordinance. Purchase, creation, or enhancement of replacement habitat area shall be required at ratios determined by the Resource Protection Ordinance or State and Federal agencies, as appropriate. In areas of native vegetation that are connected to an open space system, the City shall require that as much native vegetation as possible is preserved **as open space**. (*emphasis added – also, the Resource Protection Ordinance [RPO] was part of the City’s old municipal code; these resources are now protected under the Environmentally Sensitive Lands [ESL] regulations.*)

Proposal 1. states in part:

Preserve the flood plain and adjacent slopes of the five major canyon systems that traverse the community – Los Penasquitos Canyon ... in a natural state **as open space**. (*emphasis added*)

In addition, the Residential Land Use portion of the certified LUP (Mira Mesa Community Plan) includes the following goal and subsequent policies and proposals:

Goal (cover page of element) allows:

Residential subdivisions that are designed to preserve Mira Mesa’s unique system of canyons, ridge tops and mesas.

Policy 1. Determination of Permitted Density states:

a. In determining the permitted density and lot size for specific projects, within the density ranges provided under the Proposals below, the City shall take into account the following factors:

1. Compatibility with the policies established in this plan;
2. Compatibility with the density and pattern of adjacent land uses;
3. Consideration of the topography of the project site and assurance that the site design minimizes impacts on areas with slopes in excess of 25 percent **and sensitive biology**. (*emphasis added*)

Policy b. states:

The City shall permit very low density development in canyon and slope areas that are not to be preserved for open space and shall permit flexibility in street improvements in residential subdivisions in topographically constrained sites.

Proposal 1. states in part:

The following density ranges and building types are proposed to meet the goals of this plan: ...

... Very low density: 0-4 dwelling units per gross acre. This density range is proposed for Lopez Ridge and the northeastern corner of the community near Canyon Hills Park. This range is generally characterized by clustered detached single-family or attached multifamily units (such as duplexes and townhomes) built on large hillside parcels **that contain relatively small areas suitable for buildings.** Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, **and protect areas of unique topography and vegetation.** ... The maximum four units per acre is not likely to be achieved except on lots that have large areas in slopes of less than 25 percent. ... (*emphasis added*)

Taken together, these policies emphasize the importance of the community's canyon and open space system, and stress the importance of protecting all native vegetation and functioning habitats. The proposed RS-1-14 Zone would be one way to achieve that purpose, as long as it applies to non-sensitive areas, but it is not the only acceptable zone. When considering the conditionally certified LUP, it is clear that the appropriate development area on this site is much smaller than what the City originally proposed. Thus the City and property owner may consider multi-family development more desirable given the potential development footprint is smaller.

A look at the range of zoning available in the City's LDC demonstrates that many different zones could be applied to the property and still implement the certified LUP, as amended. Nearly all the multi-family zones also allow SFRs, so a multi-family zone could provide more flexibility in allowing either single-family development, multi-family development or a combination of the two. However, the applicant is proposing 5,000 sq.ft. lots to accommodate the particular development approved by the City for this site and minimum lot size in the multi-family zones is 6,000 sq.ft. Thus, if single family units are built under the multi-family zone, there would likely be fewer units within the same area but larger individual lots. Since the recommended boundary line will concentrate the area available for development on the western mesa, the City might also wish to consider the zone being proposed for the single-family areas of Crescent Heights, east of the subject site. The RX-1-2 Zone being proposed for that property would allow minimum lot sizes of 3,000 sq.ft. such that the site could hold a greater number of homes on smaller lots.

Although this site raises a number of different potential issues, by far the most significant is preservation of ESHA. Since that can be achieved through establishing the appropriate boundary between open space and developable area, the Commission finds that determining the correct density for this property is more a City (i.e., local) concern. However, because the LUP suggested modifications significantly change the open space/developable area boundary, the proposed line between the new residential zone and the open space zone on the proposed zoning maps must be rejected. Therefore, the Commission rejects the proposed rezoning, as submitted, and makes no suggested modifications.

OC-1-1 Zone

a) Purpose and Intent of the Ordinance. As stated in the Land Development Code (LDC): “The purpose of the OC zone is to protect natural and cultural resources and environmentally sensitive lands. It is intended that the uses permitted in this zone be limited to aid in the preservation of the natural character of the land, thereby implementing land use plans.”

b) Major Provisions of the Ordinance. The specific RS-1-14 Zone primarily provides for:

1. Allows only passive recreation and natural resources preservation by right;
2. Allows satellite antennas and interpretive centers, with discretionary permits;
3. No specific design criteria in this zone.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The certified LUP identifies portions of the Sunset Pointe site for open space. The text of the LUP, as quoted above, makes it clear that the open space zone is intended to correspond to the resources on the ground. Only if the boundary between developable area and open space is accurately drawn and matches the line in the LUP maps, can the Commission be assured that the zoning will carry out the intent of the LUP. As currently proposed, that is not the case, but the OC-1-1 Zone will be the appropriate zone to apply to open space areas in the future.

PART VII. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission, and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in a LCP submittal or, as in this case, a LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, conforms to CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

In this particular case, the requested LCP amendment, as submitted by the City, is not consistent with CEQA, particularly with regard to land use and biological resources. Therefore, the Commission denies the LCP amendment and then approves it with suggested modifications addressing these issues. As modified, the Commission finds that there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the LCP amendment may have on the environment. Therefore, in terms of CEQA review, the Commission finds that approval of the LCP amendment will not result in any significant adverse environmental impacts.